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Electricity Authority
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Tēnā koutou

Consultation Paper – Code Amendment Omnibus Two: December 2023

The WEL Group (consisting of WEL Networks, NewPower Energy Services, NewPower Energy and Infratec) appreciates the opportunity to provide feedback on the Electricity Authority's (the Authority) Consultation Paper – Code Amendment Omnibus Two: December 2023 (the consultation).

WEL Networks (WEL) is New Zealand's sixth largest electricity distribution company and is 100% owned by our community through our sole shareholder WEL Energy Trust. Our guiding purpose is to enable our communities to thrive, and we work to ensure that our customers have access to reliable, affordable, and environmentally sustainable energy.

Executive Summary

We believe that the Code amendments proposed in the consultation paper (particularly those relating to Part 6A), have the potential to unnecessarily impede New Zealand's electricity distribution sector, including WEL and our subsidiaries (NewPower Energy Services Limited, NewPower Energy Limited, and Infratec NZ Limited), from delivering more reliable, affordable, and sustainable energy to our communities.

The body of this submission addresses each of the three proposed amendments and sets out several key considerations that we encourage the Authority to have regard to in assessing its proposed amendments. In particular:

Section One - Amending Part 6A to include all generation technologies

a) When exercising its powers under the Electricity Industry Act 2010 (the Act), the Authority must have regard to its statutory objective set out under section 15 of the Act. However, it is not clear (and, in our view, the Authority has not clearly demonstrated) that extending Part 6A to capture solar and battery technology, at least in the manner which has been proposed, is consistent with the Authority's objective and for the long-term benefit of consumers.
b) In light of the above regulatory framework, we consider the proposed amendments to Part 6A risk creating inconsistencies with the Authority's objectives under the Act. Taken together, these drafting issues raise doubt as to whether the benefits of the proposed amendments outweigh the costs, particularly costs associated with disincentivising distributors from participating in markets related to renewable generation.
c) In these circumstances, it is important for the Authority to ensure that it has fully considered alternative options available and the extent to which they may be more consistent with its objectives under the Act. For example, the Authority may wish to consider whether an output-based trigger for the application of the Arm's-

Length Rules (i.e. MWh per annum, as used for the equivalent test for retailing) would better promote competition in, and the efficient operation of, the electricity industry for the long-term benefit of consumers.

Section Two - Permanent Code amendment to clarify use and availability of discretionary demand control

The urgent "Option E" Code amendment was implemented with the purpose of increasing the visibility of the volume of load distributors could control if the System Operator issued a notice about a tight supply. The proposed permanent Code amendment goes beyond this intent – changing from information provision to actual actions which will have an impact on market prices.

Section Three - Updating and clarifying the scope and effect of Part 6A obligations

The proposed Part 6A changes go beyond what is necessary to meet the Authority's objectives, and verge on 'policy changes' to place obligations on a wide undetermined set of people/participants.

The proposed Clause 6A.3(2) describes the persons that must comply with arm's length rules and has been substantially redrafted to place obligations on "any other participant" involved in the distributor and connected generator/retailer respectively. The proposed change significantly widens the scope of the obligations and it's not clear who the "any other participant" could be – creating unnecessary confusion and ambiguity in the Code.

Appendix 1 to this submission includes responses to the Authority's specific questions, in the format requested. This submission and the Appendix 1 responses should be read in conjunction with each other.

Should you require clarification on any part of this submission, please do not hesitate to contact me.

Ngā mihi nui

David Wiles

Revenue and Regulatory Manager

Section One - Amending Part 6A to include all generation technologies

The focus of the first proposal of the consultation paper is to ensure that all generation (including new) technologies are captured within Part 6A of the Code, such that they will contribute to determining whether a distributor has exceeded the 50MW threshold that triggers the corporate separation and arm's-length rules in the Code ("Arm's-Length Rules").

There are several key considerations we encourage the Authority to have regard to in assessing its proposed amendments to Part 6A. In particular:

A. Long-term interests of consumers

Relevant regulatory framework

When exercising its powers under the Act to amend the Code, the Authority must ensure that its proposed amendments are consistent with its statutory objective to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.[1] The Authority has wide scope to consider the long-term implications of its decisions, including relevant policy considerations, to determine how the long-term interests of consumers may be affected.[2]

Opportunities and challenges for the electricity industry

Therefore, in the context of the Authority's proposal to extend Part 6A to capture non-rotating generation (including solar and battery generation), we consider that the following opportunities and challenges facing the electricity industry (and related policy considerations) may assist the Authority with its assessment of the long-term interests of consumers:

a) The demand for electricity in New Zealand is increasing significantly due to a range of contributing factors, including population and economic growth, and the electrification of transport and process heat as part of meeting New Zealand's target of net-zero carbon emissions by 2050.[3] The Ministry of Business, Innovation and Employment has stated that achieving the 2050 net-zero emissions target will require "rapid expansion and major acceleration of renewable electricity infrastructure". [4]

b) While the rate of investment in renewable generation is increasing, it is estimated that new generation of 1,700 GWh per annum is needed by 2025, and a further 1,000 GWh by 2027.[5] Longer-term, demand growth is "expected to take off", with many forecasts predicting that generation will need to increase by more than 50% by 2050.[6] To put it another way, New Zealand must increase its renewable generation capacity by around 400

[1] Section 32(1) of the Electricity Industry Act 2010.
[2] *Manawa Energy Ltd v Electricity Authority* at [61].
[3] The Climate Change Response Act 2002 was amended in 2019 to set three targets: net-zero carbon emissions by 2050, and biogenic methane emissions reduced below 2017 levels by 10% by 2030 and by 27-47% by 2050.
[4] Ministry of Business, Innovation and Employment *Strengthening National Direction on Renewable Energy Generation and Electricity Transmission* (12 April 2023) at page 1 (https://www.mbie.govt.nz/dmsdocument/26387-strengthening-national-direction-on-renewable-energy-generation-and-electricity-transmission-consulation-doc-pdf).
[5] Concept Consulting, *Generation investment survey: 2023 update preparing for the Electricity Authority* (2023) at pg 2.
[6] Concept Consulting, *Generation investment survey* at pg 36.

to 500 megawatts (MW) every year until 2050.[7] As observed by the Authority, this growing electricity demand will increase the required sizes of distribution networks and "create new challenges for managing the congestion on those networks".[8]

c) While the advancement of new technologies is driving more efficient use of New Zealand's existing generation capacity (such as demand aggregation and increased network visibility), these developments are unlikely to be sufficient on their own to address the inefficiencies associated with centralised generation in New Zealand. Accordingly, industry participants, and particularly distributors, should be supported to invest in network-level generation now, to ensure that the significant challenges and opportunities faced by the electricity sector can be met.

We note that distributors will play a crucial role in meeting these opportunities and challenges, including by supporting the uptake of distributed energy resources and investment in renewable generation. The Authority has previously acknowledged that "electrification of transport and process heat will create a substantial increase in electricity demand going through distributor networks" and, therefore, distributors have a "critical role to play in supporting New Zealand's transition to a low emissions economy".[9]

Assessing consistency with the Authority's objective

Against this background, we are concerned that the proposed amendments to Part 6A potentially create barriers to distributors supporting investment in renewable generation technology, to the detriment of the long-term interests of consumers. For example:

a) while the extension of the Arm's-Length Rules to capture non-rotating generation is itself appropriate, the new thresholds proposed may have the effect of disincentivising distributors from investing in solar and battery technology by imposing onerous and costly separation requirements that are disproportionate to the benefit that the additional generation provides;

b) as a result, the level of price competition in markets related to renewable generation may decrease as compared to the counterfactual, with the potential effect of marginally increasing prices in the wholesale electricity market and ancillary services market (given distributors will be less likely to compete in these markets); and

c) distributors may incur unnecessary costs, delays and uncertainty to apply for exemption applications in respect of renewable generation on their network, which will potentially introduce avoidable inefficiencies into electricity networks (including by delaying investment in renewable generation at the same time as demand for such generation is increasing significantly).

[7] Electricity Authority *Promoting competition in the wholesale electricity market in the transition toward 100% renewable electricity – Issues Paper* (2022) at para [4.5] (https://www.ea.govt.nz/documents/2243/Promoting-competition-in-the-wholesale-electricity-market.pdf).
[8] Electricity Authority, *Energy Transition Roadmap* (December 2021) at para [3.17].
[9] Electricity Authority, *Updating the Regulatory Settings for Distribution Networks: Discussion paper* (July 2021) at page ii.

Accordingly, it is not clear that the proposed amendments are necessary or desirable to promote competition in, or the efficient operation of, the electricity industry for the long-term interests of consumers, and therefore, we would welcome a clearer articulation of this by the Authority, before any Code amendment is progressed.

B. Ambiguity of determining the 'maximum amount' of each generating unit

In light of the above regulatory framework, we consider that the drafting of the proposed amendments gives rise to several issues which appear to create inconsistencies with the Authority's objective under the Act. Specifically, under the new definition of "connected generation" proposed by the Authority:

a) The "maximum amount" of a generation unit offered or gifted into the wholesale market, or contracted to the system operator as an ancillary service, will not necessarily be reflective of the actual output of a non-dispatchable generation unit (e.g. the output of intermittent generation is affected by factors outside the control of the generator, such as sunlight conditions, and operational constraints may also result in the available output of a generating unit changing over time). In our view, this may result in unintended consequences, given that:

   i. by designating the "maximum amount" as the relevant value, distributors will be subject to an inflexible requirement to limit their aggregate "connected generation" according to the maximum possible output of their generation units, rather than the actual output that is contributed to the relevant markets. This is a particular issue for battery generation, where operational constraints (such as thermal operating limits) only allow the maximum capacity of a network battery to be discharged into a network or the grid several times a year, meaning its 'continuous' operating capacity is considerably less, e.g. ~50% of maximum capacity; and

   ii. therefore, a distributor may be required to comply with the Arm's-Length Rules (and incur the costs associated with doing so) even though it is not able to provide over 50MW of generation to the market. Based on the commercial drivers faced by distributors in these circumstances, they are likely to be disincentivised from investing in renewable generation.

b) The catch-all under limb (d) of the new definition refers to "nameplate capacity" as defined in the Code, which the Authority suggests is "technology agnostic".[10] However, we note that, even under the Code definition, it is still necessary to determine the "full-load continuous rating of the generating plant's inverter", which appears to be inconsistent with the EA's observation that "batteries and solar are not capable of running 'continuously' at a constant load for an unlimited period of time".[11] As a result, we do not consider that the proposed amendments address the ambiguity in the existing definitions.

c) The new definition requires connected generation to be calculated based on the "combination of the maximum capacity of each generating unit" that is: (i) offered or gifted into the wholesale market as energy or reserves, or (ii) contracted to the system operator as an ancillary service, or (iii) for generation not included under the preceding limbs, the "nameplate capacity" of the generating unit. In our view, the requirement to

[10] Consultation Paper at [2.16].
[11] Consultation Paper at [2.10].

aggregate generation capacity across these three limbs is potentially inconsistent with the Authority's objective under the Act. The Authority interprets its objective to mean "exercising its functions in ways that facilitate or encourage increased competition in the markets for electricity" (including by taking into account "long-term opportunities and incentives for…investment and innovation in those markets").[12] However, it is not clear that the Authority will be in a position to assess whether the imposition of the Arm's-Length Rules on distributors is having the effect of facilitating or encouraging increased competition in relevant markets, given that:

i. the Authority is proposing that the Arm's-Length Rules be triggered according to the aggregate capacity of a distributor's generating units across all markets in which that distributor is active, without regard to what proportion of the distributor's total generation is utilised for each of those separate markets; and

ii. the potential effects on competition of a distributor's involvement in one market for electricity generation will not necessarily impact or be relevant to competition in another market in which the distributor is active. For example, a distributor offering 50MW of generation into the wholesale market is unlikely to impact the prices paid or received by participants in the market for ancillary services.

Taken together, we consider that these issues raise a material level of doubt as to whether the benefits of the proposed amendments to Part 6A will outweigh the costs, and whether the Authority's statutory objective would be met.

C. Alternative options for triggering the Arm's-Length Rules

In these circumstances, it is important that the Authority fully considers alternative options available and the extent to which they may be more consistent with its objectives under the Act.

For example, we encourage the Authority to consider whether an output-based trigger for the application of the Arm's-Length Rules (i.e. MWh per annum, as used for the equivalent test for retailing) would better promote competition in, and the efficient operation of, the electricity industry for the long-term benefit of consumers. In particular:

a) As well as simplifying the trigger for the Arm's-Length Rules, this approach would ensure that the imposition of the rules on distributors (and the associated costs) is proportionate to distributors' actual generation output.

b) It would remove unnecessary disincentives on distributors from competing in markets related to renewable generation (or incurring unnecessary costs, delays and uncertainty associated with exemption applications), resulting in increased price competition in those markets, for the long-term benefit of consumers.

c) It would also provide flexibility to account for the fact that "generation capacity may change over time as conservative limits (due to warranty or operating contracts) expire", as well as the variability which is inherent in non-dispatchable generation.[13]

[12] Electricity Authority, *Interpretation of the Authority's statutory objective* (14 February 2011) at [A.30].
[13] Consultation Paper at [2.23].

d) In contrast to the 'combined generation' approach described under paragraph 9(c) above, the Authority would also have greater flexibility to set market-specific thresholds for the application of the Arm's-Length Rules (given the threshold could be tied to a distributor's actual output in each market), which may improve the Authority's ability to facilitate and encourage competition by aligning the application of the Arm's-Length Rules with the specific features of each market.

Alternatively, it may be a good time for the Authority to consider whether the existing 50MW threshold (or a MWh equivalent) remains an appropriate value to trigger the Arm's-Length Rules, given that:

a) there are substantial differences in scale between electricity distribution networks in New Zealand.[14] While 50MW of generation would represent a material share of total connected generation for some networks, in the case of New Zealand's larger networks it only amounts to a small fraction of generation on their network (and is therefore less likely to give rise to competition issues to the same degree as may be the case for smaller networks);

b) the New Zealand electricity sector has grown since the 50MW threshold was first introduced under the Act (e.g. electricity generation has increased since 2010), meaning 50MW of connected generation may no longer reflect the regulatory settings required to promote competition in markets related to electricity generation; and

c) as noted above, electricity networks will need to continue to grow to meet the significant increases in demand for renewable electricity in the coming years, which raises further questions as to whether the 50MW threshold will remain an appropriate regulatory setting going forward, particularly if it disincentivises distributors from investing in renewable generation.

Accordingly, the Authority may also wish to consider whether its objectives under the Act would be better achieved if the 50MW threshold (or a MWh equivalent) was made to be proportionate to the size of each electricity network and/or reflective of growth in the electricity sector. In particular, these measures may help to ensure that distributors are not unnecessarily restricted from competing in markets related to generation, to the benefit of the long-term interests of consumers.

[14] For example, Buller Electricity's network (~4,700 connections) represents less than 1% of Vector's network (~590,000 connections).

Section Two - Permanent Code amendment to clarify use and availability of discretionary demand control

The second proposal of the consultation proposes to permanently codify the intent of the existing urgent "Option E" Code amendment, while also creating two price bands for controllable load difference bids.

WEL supports the principles of improving visibility, and clarifying availability, of controllable load. However, we have some concerns with what is being proposed to replace the urgent "Option E" Code amendment.

As it stands, the existing urgent "Option E" Code amendment does not require controllable load, that is in the instantaneous reserves market, to be disclosed to the System Operator (beyond the submission of zero quantity difference bids). We continue to support this approach.

However, we are concerned about the Authority's proposal to implement two price bands for difference bids.

Our understanding of the current arrangement is that all load in a difference bid is offered at $9,000/MWh and two different volumes can be called on, with the System Operator being able to:

- request the load be controlled under a Warning Notice (WRN); and
- instruct the load be controlled under a Grid Emergency Notice (GEN).

The new price bands are for:

- instructed controllable load - when there is a GEN, difference bids are priced at scarcity-like conditions of $9,000/MWh (i.e., no change)
- requested controllable load - when the System Operator requests a change under a formal notice, difference bids are priced at $0.01/MWh.

The consultation paper states the advantage of the $0.01/MWh controllable load is that the volume will be reflected in the forward price responsive schedules. This means the load offered at this price will have to be controlled for the period the offer relates to - regardless of whether the System Operator needs it and/or requests it.[15]

WEL does not support the proposed two price structure, for the following reasons:

a) the urgent "Option E" Code amendment was implemented with the purpose of increasing the visibility of the volume of load distributors could control if the System Operator issued a notice about a tight supply. The proposed permanent Code amendment goes beyond this intent – changing from information provision to actual actions which will have an impact on market prices.

b) if the requested controllable load has to be 'turned off' for the periods offered and (not receive a payment) at $0.01/MWh, the distributor already has the option of being a dispatchable load participant and offering that load at a higher price in the market – and is financially incentivised to do this.

[15] Source: paragraph 3.15, page 13 of consultation paper

c) it appears a 'formal notice' is any notice that the System Operator issues – according to the defined term in the Code and a Transpower report[16], that is a SRC, CAN, WRN and GEN. The form of notice used by the System Operator is irrelevant because the load is already dispatched at $0.01/MWh. The System Operator making a 'request' is also irrelevant because the price means it is already in the market.

d) this requested controllable load volume at $0.01/MWh is effectively displacing other resources that are offered as instantaneous reserves. The Code proposal may be considered predatory pricing in the reserves market.

e) if this load is being dispatched at such a low price it must have flow on consequences for the value of flexibility products/services when a market develops for these. If a distributor provides these volumes as controllable for a price of $0.01/MWh (and does not receive any income for this) the distributor is very unlikely to pay any higher price to buy flexibility non-network/traditional solutions from third parties.

We believe that a more enduring solution would be the creation of a product, for use by the System Operator, that stimulates provision of controllable load at a contestable price, especially for use during tight supply situations.

Our preference is that the current urgent “Option E” Code provisions are rolled over into a permanent amendment until the System Operator has a financial product in place. This ensures the System Operator is still able to procure information about "instructed controllable load" at a not paid scarcity related price of $9,000/MWh. This is the volume that can be 'turned off' in a shortage situation.

The proposed 'available requested controllable load’ at a price band of $0.01/MWh' should not be mandated in the Code – this is an artificial price that has implications for the efficient operation of the wholesale market.

[16] https://static.transpower.co.nz/public/bulk-upload/documents/Shortfall%20Indications%20and%20Security%20Notices.pdf?VersionId=TCQ_HXcEmaSFtnK9.9p1B3Iyu.rg35ge

Section Three - Updating and clarifying the scope and effect of Part 6A obligations

The final proposal of the consultation proposes to amend Part 6A to clarify who has obligations under Part 6A rules and other minor clarifications.

We agree that it is worthwhile to update the Code to address the problems identified by the Authority. However, in our view, some of the proposed Code changes go beyond what is necessary to meet the Authority's objectives, and verge on 'policy changes' to place obligations on a wide undetermined set of people/participants.[17] This issue becomes clear when reading the proposed Code (as opposed to the commentary in the consultation paper).

Clause 6A.3(1) places obligations on 'every participant and specified person' to carry on the business of distribution and connected generator/retailer in a different company. [emphasis added]

Clause 6A.3(2) then describes the persons that must comply with arm's length rules and has been substantially redrafted and scope widened:

(2) The following persons ~~Every person who is involved in a distributor, and every person who is involved in a connected generator or a connected retailer,~~ must comply, and ensure that the person's businesses comply, with the arm's-length rules~~.~~:

(a) every **distributor** in respect of which there is a connected generator or a connected retailer, and any other **participant** involved in that **distributor**;

(b) a connected generator in respect of the **distributor**, and any other **participant** involved in the connected generator; and

(c) a connected retailer in respect of the **distributor** and any other **participant** involved in the connected retailer; and

(d) a **specified person** who is involved in the **distributor** and either a connected generator or a connected retailer in respect of the **distributor**.

Clauses (a), (b) and (c) place obligations on "any other participant" involved in the distributor and connected generator/retailer respectively.[18] This is a change from 'any person' involved. The proposed change significantly widens the scope of the obligations. It's not clear who the "any other participant" could be – creating confusion and ambiguity in the Code.

In our view, the words "any other participant" should be replaced with "any specified person". This change is consistent with:

- section (1) of the same clause 6A.3; and
- more importantly, the Authority has changed the actual arm's length rules to refer to the participant or a specified person involved in both businesses (Schedule 6A.1 clause 3)
- the majority of the other obligations in this section of the Code are on a participant or specified person.

The term "specified person" is clearly defined in the Code referring to the Electricity Industry Act definition – which is:

Clause 32(3) and 32(6) respectively of the Electricity Industry Act:

[17] See paragraph 4.11 of the consultation paper

[18] The same change (to include 'any other participant') has been made to c.6A.5 relating to payments for the transfer of retail customers to connected retailers.

(3) The Code may impose obligations on a specified person for the purpose of restricting relationships between 2 classes of industry participants, where those relationships may not otherwise be at arm's length.

specified person means a person (other than an industry participant) who is involved in both classes of industry participant that are the subject of any provisions made in accordance with subsection (3).

Under the Authority's proposed change "any other involved participant" could be ANY participant. This is too broad and therefore creates unclear accountabilities. In our view, the proposed change is inconsistent with section 32(1) of the Act[19] as it:

- makes it harder, not easier, for participants and others to understand what is required from them under Part 6A; and
- therefore makes it harder to comply with any obligations; and
- the ambiguity is likely to increase costs for distributors with potential connected retailers/generators.

We recommend c.6A.3(2) and 6A.5(2) be amended by replacing "any other participant" with "any specified person".

[19] Refer paragraph 4.17 of the consultation paper.

Appendix 1: WEL Network's response to the Authority's questions

Question	Response
Q1.1. Do you support the Authority's proposal to include all generation technology under Part 6A?	While we support the principle of the Authority's proposal to include all generation technology under Part 6A, we do not support the Authority's proposed amendment, as drafted. We note the Authority's problem definition states that "Part 6A does not need to account for technical and engineering possibilities as it only needs a definition that accounts for the ability of the generation to affect competition".[20] The Authority must be clear that it is concerned about the impact on competition as it relates to the long-term benefit of consumers. The Authority's interpretation of its statutory objective[21] states: "the Authority interprets its statutory objective as requiring it to exercise its functions in section 16 of the Act in ways that, for the long-term benefit of electricity consumers". "Each of the three limbs of the Authority's statutory objective are directed towards achieving outcomes for the long-term benefit of electricity consumers." As discussed in the body of our submission, distributor ownership of generation can provide long term benefits to consumers.
Q1.2. Do you support the Authority's proposal to create a new definition for "connected generator"?	We do not support the approach the Authority has used to arrive at the proposal. There is at least one other option which is simpler, technology agnostic and more equitable. We do not support the introduction of a new concept of "the way in which the generation is used"[22] – this 'outcomes'-based concept is foreign to any other part of the Code. The physical capability of the generation can be measured by annual generation output. However, if the Authority is concerned about the impact of distributor-owned generation on competition then it should be monitoring the impact on competition in each of the 'markets' described in the new definition of connected generator – and not the cumulative amount of each activity. The proposed definition of connected generation effectively requires the **energy** (offered, gifted or contracted) to be measured and then converted to MWs.[23] Retaining these measurements as energy (MWh) is technology agnostic and is more reflective of the extent of the distributed generation's interaction with the wholesale electricity market.

[20] Paragraph 2.17 page 7 of consultation paper
[21] https://www.ea.govt.nz/documents/483/Interpretation_of_the_Authoritys_statutory_objective_izDdeF9.pdf
[22] Paragraph 2.18 page 7-8 of consultation paper
[23] If generation is 'gifted' and not receiving any income from the market, we question how it can have an impact on market competition.

Q1.3. Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010	We do not agree the proposed amendment is preferable to the other options. Total capacity is a poor measure of a generator's ability to lessen or inhibit competition. Part 6 already limits the ability of a distributor to favour or prioritise its own generation against distribution connected generation owned by other parties. We suggest that an energy-based measure for distributed generation is a better approach than total capacity. An energy-based measure is technology agnostic and is more reflective of the extent of the distributed generation's interaction with the wholesale electricity market. Our preferred option is to use an energy-based measure (e.g. owns generation that generates 75 GWh of electricity per year). The energy-based measure: • better reflects the interaction and ability to influence of the DG with the electricity market over time. • is simple to calculate with lower attendant costs. • is technology agnostic which won't require future changes to the Code as technology evolves. We believe this option has greater benefits than the Authority's preferred option. Our suggested approach means there does not need to be any change to the definitions of 'total capacity' and 'nameplate capacity' in the Code or in the Act.
Q1.4. Do you agree with the analysis presented in this Regulatory Statement? If not, why not?	No comment.
Q1.5. Do you have any comments on the drafting of the proposed amendment?	The new definition of connected generation is likely to lead to confusion as it is intended as a capacity measure (MW) rather than relating to generating plant in general as the name suggests. The definition will unduly penalise BESS which offers interruptible load (while charging) and instantaneous reserves at the same time i.e. a double counting will occur. It is somewhat unclear if the definition proposes summing the various outcomes or the outcome with the highest output applies. The drafting states: 'The sum of any combination of the maximum amount of each generating unit in MW, that is (a) offered … , OR (b) gifted …, OR (c) contracted '

	We suggest the OR at the end of (a) and (b) should be AND. If the generator is not contracted as, for example, an ancillary service agent a zero will be included in the equation. The definition still relies on the Code definition of 'nameplate capacity' which still relies on the "full-load continuous rating" of the generator or inverter. This is obviously a catch all for any generation technology where full-load continuous rating is relevant, i.e., traditional generation technologies.
Q2.1. Do you support the Authority's proposal to permanently implement the intent of the urgent Code amendment, Electricity Industry Participation Code Amendment (Discretionary Demand Control) 2023? Please explain your answer.	WEL supports the principles of improving visibility, and clarifying availability, of controllable load. However, we have some concerns with what is being proposed to replace the urgent "Option E" Code amendment. We believe that the proposed permanent Code amendment has a different intent from the urgent Code amendment (which was purely to increase transparency for the System Operator on load that distributors could reduce if instructed to do so). The proposed permanent Code amendment changes this from information provision to actual actions that have an impact on market prices.
Q2.2. Do you support adopting the term controllable load? Please explain your answer.	Yes, however, if 'controllable load' becomes a defined term it must incorporate all the existing uses of this term throughout the Code.
Q2.3. Do you support the use of the term 'resources' over 'quantity of demand'? Please explain your answer.	Using the term 'quantity of resources' instead of 'quantity of demand' seems reasonable so that it refers to all of the resources under the management of the distributor that could respond in a shortage situation.
Q2.4. Do you support the proposal to introduce two price-bands? Please explain your answer.	WEL does not support the proposal to introduce two price-bands. We explain our reasons in the body of our submission. This change goes beyond the 'intent' of the urgent Code change.
Q2.5. Do you support pricing requested controllable load at $0.01/MWh? Please explain your answer	WEL does not support the proposal to price requested controllable load at $0.01/MWh. We explain our reasons in the body of our submission. This change goes beyond the 'intent' of the urgent Code change.
Q2.6. Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.	WEL does not agree that the proposed amendment is preferable to the other options. The Authority proposes one other option – which is to let the existing urgent Code amendment expire without replacement.[24] Our preference is that the current urgent "Option E" Code provisions are rolled over into a permanent amendment until the System Operator has a financial product in place.
Q2.7. Do you agree with the analysis presented in this	No. The qualitative description of benefits is overstated (point (a) is duplicated in point (d)) and fails to acknowledge the impact of a price of

[24] Paragraphs 3.18 – 3.20 on the counterfactual.

Regulatory Statement? If not, why not?	$0.01/MWh – this volume will already be 'dispatched' for the periods offered so 'visibility' is irrelevant; it will impact volumes and prices in the instantaneous reserves market; and distributors are likely to use this arbitrary mandated price as a comparator for purchasing flexibility from third parties.
Q2.8. Do you have any comments on the drafting of the proposed amendment?	No comment.
Q3.1. Do you agree the problems identified need addressing? Please explain your answer	We agree there is value in clarifying obligations in Part 6A. However, some of the Authority's proposals have changed the Code from imposing obligations on *every person* who is involved in a distributor … to *every* participant. We believe that this broadened scope is not consistent with the way the arm's length rules have been reworded.
Q3.2 Do you agree with the proposals? Please explain your answer	We agree with the intent of what is being proposed, however, we do not agree with the drafting which is being proposed.
Q3.3. Do you agree with the analysis presented in this Regulatory Statement? If not, why not?	No comment.
Q3.4. Do you have any comments on the drafting of the proposed amendment?	In our view, in Clause 6A.3(2), the words "any other participant" should be replaced with "any specified person"
Q4.1 Do you consider the omnibus format should be continued as a way of consulting on several small but independent separate Code amendments?	We support an omnibus format as long as: • it is very clear, without reading the whole paper, the changes that are being proposed – to ensure any interested party can easily understand if they should read part or the whole consultation document. • the level of analysis is comprehensive and not cursory. For example, in this consultation, for each of the 3 topics, the counterfactual has been the status quo; there should have been additional information/data relating to actual discretionary demand that could have reinforced the value of a permanent Code change. It is not clear that there are necessarily advantages in reducing the number of consultation papers issued if the topics in an omnibus consultation are vastly different.
Q4.2. Do you have any comments on the omnibus format or suggestions to improve the omnibus format?	See answer to Q4.1. In the case of the three topics in this omnibus the detail in the 'consultation' on each topic is quite short (8, 7 and 13 pages). Individual consultation papers of this length are welcome.